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U.S. DISTRICT COURT
DISTRICT OF MASS.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

In Re:)
MICHAEL J. DELANEY) Bankruptcy Appeal
Debtor) C.A. No. 04-10393-NG
)
)

MOTION OF GERRITY COMPANY INCORPORATED
FOR HEARING ON MOTION FOR ORDER DISMISSING APPEAL

To the Honorable Nancy Gertner, United States District Judge:

Gerrity Company Incorporated, (hereinafter "Gerrity"), one of the Appellees in the above captioned appeal, hereby respectfully requests that this Court schedule a hearing on the Motion of Gerrity Company Incorporated for Order Dismissing Appeal Due to Mootness (hereinafter the "Motion"). Said Motion was filed with this Court on March 24, 2004. A Memorandum of Law in support thereof was filed on April 7, 2004. Copies of the Motion and Memorandum are annexed hereto and marked respectively Exhibit A and Exhibit B.

The reason for this request is as follows. Gerrity is the Plaintiff in an eviction proceeding in the Commonwealth of Massachusetts Housing Court, Southeastern Division, Docket No. 04-SP-05168 (the "Eviction Proceeding"). The Court in the Eviction Proceeding has entered an order, inter alia, which stays the Eviction Proceeding pending final appellate determination in a state court matter between the parties and the decision from this Court in this appeal. A copy of that Memorandum of Decision is annexed hereto and marked Exhibit C.

For that reason, it is respectfully requested that this Court schedule a hearing on the Motion so that the Eviction Proceeding will be able to proceed.

Respectfully submitted
Gerrity Company Incorporated
By its Counsel,

Dated: 9/22/04

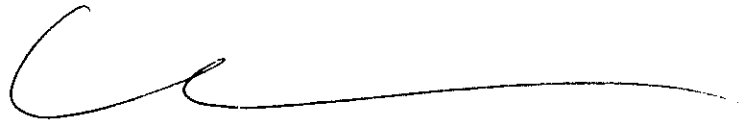


Gary W. Cruickshank, Esq.
21 Custom House Street
Suite 920
Boston MA 02110
(617) 330-1960
(BBO107600)
gwc@cruickshank-law.com

CERTIFICATE OF SERVICE

I, Gary W. Cruickshank, hereby certify that a copy of the foregoing Motion has been served, via facsimile and regular mail, upon James F. Creed, Jr., Esq., Creed & Formica, Counsel to the Appellants, 1329 Highland Avenue, Needham Massachusetts 02492 and by regular United States mail, postage prepaid, to all other Defendants on the annexed list.

Dated: 9/22/04



Gary W. Cruickshank, Esq.

Richard Hackel, Esq.
98 N. Washington Street
Boston MA 02114

James Creed, Jr., Esq.
Creed & Formica
1329 Highland Avenue
Needham MA 02492

David Madoff, Esq.
Madoff & Khoury, LLP
124 Washington Street
Suite 202
Foxboro MA 02035

Stephen Greenbaum, Esq.
Greenbaum, Nagel, Fisher & Hamelburg
200 High Street
Boston MA 02110

United States Trustee
1184 Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street
Boston MA 02222

Peter Young, Esq.
90 Oak Street
Newton Upper Falls MA 02464

Stephen Shamban, Esq.
639 Granite Street
Box 850973
Braintree MA 02185

Cape Cod Lumber Co.
403 Bedford Street
Abington MA 02353

CNJ, Inc.
421 Bedford Street
Whitman MA 02382

PA Landers, Inc.
24 Factory Pond Road
Hanover MA 02339

Kevin and Susan Kiley
151 Planting Fields Road
Marshfield MA 02050

Town of Pembroke
Town Hall
Pembroke MA 02359

North River Plumbing
44 Mountain Avenue
Pembroke MA 02359

Sampson Lumber Co.
P.O. Box 790
Pembroke MA 02359

Commonwealth of Massachusetts
Department of Revenue
P.O. Box 55484
Boston MA 02205

Scott and Sandra Kearns
c/o Kethro & Thomas
1165 Washington Street
Hanover MA 02339

Paula Ingham
f/k/a Pamela Delaney
35 Misty Meadow Road
Pembroke MA 02359

Delancon Corp.
c/o Michael Delaney
183 Columbia Road
Hanover MA 02339

Michael Delaney
78 Lowell Road
Pembroke MA 02359

Michael Delaney
Box 726
Hanover MA 02339

Matthew Delaney
47 Wintergreen Farm Road
Pembroke MA 02359

Quail Run Realty Trust
c/o Michael Delaney
48 Fieldstone Drive
Hanover MA 02339